

CHAPTER Env-A 1500 CONFORMITY

Statutory Authority: RSA 125-C:4

PART Env-A 1501 TRANSPORTATION CONFORMITY

Env-A 1501.01 Purpose.

(a) The purpose of this part is to implement §176 of the Clean Air Act (the Act), as amended, and 40 CFR 93, Subpart A with respect to the conformity of transportation plans, programs, and projects developed, funded, or approved by the state of New Hampshire. Conformity determinations for transportation plans, programs, and projects ensure that the purpose and intent of the state implementation plan (SIP) are being met.

(b) The primary focus of this part is to implement the consultation procedures required by 40 CFR §93.105.

Source. #6104, eff 10-27-95; amd #6839, eff 8-27-98; ss by #7971, eff 10-14-03

Env-A 1501.02 Applicability. This part shall be applicable as specified in 40 CFR §93.102.

Source. #6104, eff 10-27-95; amd #6839, eff 8-27-98; ss by #7971, eff 10-14-03

Env-A 1501.03 References.

(a) For the purpose of this part, unless otherwise specified, the April 1, 2004 edition of title 23 of the Code of Federal Regulations (CFR) shall control all references to 23 CFR 450.

(b) For the purpose of this part, unless otherwise specified, the July 1, 2004 edition of title 40 of the CFR, as amended by 69 Federal Register 40004 – 40081 (July 1, 2004), shall control all references to 40 CFR 93.

(c) For the purpose of this part, except as specified in Env-A 1501.04, the definitions contained in and referred to in 40 CFR §93.101 shall apply.

Source. #6104, eff 10-27-95; amd by #6839, eff 8-27-98; ss by #7971, eff 10-14-03; amd by 8382, eff 6-22-05

Env-A 1501.04 Definitions.

(a) “Large scale development” means a development which is expected to generate 10,000 or more vehicle trip ends on any typical summer day.

(b) “Major traffic generator” means any establishment which generates or is projected to generate traffic which significantly lowers or could adversely affect the current level of service of a state highway.

(c) “Metropolitan planning organization (MPO)” means “metropolitan planning organization” as defined in 40 CFR §93.101, namely an “organization designated as being responsible, together with the State, for conducting the continuing, cooperative, and comprehensive planning process under 23 U.S.C. §134 and 49 U.S.C. §5303. It is the forum for cooperative transportation decision-making.” This term includes the Manchester MPO, the Nashua MPO, the Salem/Plaistow/Windham MPO, and the Seacoast MPO.

(d) “Regional planning commission (RPC)” means any specific planning region as delineated by the office of state planning or otherwise established as specified in RSA 36:45 through RSA 36:58. For the purposes of this chapter, the reference to RPCs includes only those RPCs with municipalities located in a nonattainment or maintenance area.

(e) “Significant comments” means for conformity findings, at a minimum, comments relating to any issue or data that has the potential to change the outcome of a conformity determination, including but not limited to the following:

- (1) Incorrect project design concept and scope that could affect emissions analysis;
- (2) Improper or missing analysis years;
- (3) Regionally significant projects improperly reflected in the emissions analysis;
- (4) Incorrect emission factors;
- (5) Missing pollutant analyses;
- (6) Projects improperly placed in a baseline scenario;
- (7) Incorrect comparison with SIP emissions budgets; and
- (8) Failure to list not exempt projects as specified in Env-A 1501.16 in emissions analysis.

Source. #6104, eff 10-27-95; ss #6839, eff 8-27-98; ss by #7971, eff 10-14-03

Env-A 1501.05 Conformity to State and Federal Implementation Plans.

(a) All transportation plans, programs, and projects developed, funded, or approved by the state of New Hampshire shall conform with the SIP or federal implementation plan (FIP) developed pursuant to §110 and §§171 through 193 of the Act.

(b) Conformity determinations shall be made in accordance with §176 of the Act and 40 CFR 93, Subpart A.

Source. #6104, eff 10-27-95; ss by #7971, eff 10-14-03

Env-A 1501.06 Nonattainment Areas. Areas in New Hampshire designated nonattainment for any pollutant for which a national ambient air quality standard (NAAQS) exists shall be those geographic areas so designated by the U.S. Environmental Protection Agency (EPA) under §107 of the Act.

Source. #6104, eff 10-27-95; ss by #7971, eff 10-14-03

Env-A 1501.07 Roles and Responsibilities of the Department. The department shall:

- (a) Develop and implement the SIP and its revisions;
- (b) Monitor progress in achieving the NAAQS;
- (c) Consult with NH department of transportation (NHDOT), MPOs, RPCs, EPA, Federal Highway Administration (FHWA), and Federal Transit Administration (FTA) at the initiation of and during the development of SIP revisions pertaining to mobile sources including inventories, budgets, forecasts, and strategies for reduction of emissions, transportation control measures (TCMs), transportation conformity, general conformity, area classifications, and redesignations;

- (d) Coordinate with EPA on issues related to the SIP and transportation;
- (e) Coordinate with NHDOT, MPOs, and EPA to determine inputs for air quality analysis emissions modeling on MPO transportation improvement programs (TIPs), transportation plans, and projects;
- (f) Provide assistance to NHDOT and MPOs during transportation planning processes relating to air quality, including but not limited to, emissions modeling, emissions budget comparisons, exempt/not exempt project lists, and regionally significant projects;
- (g) Review and provide comments on the conformity determinations of MPO transportation plans, MPO TIPs, and NHDOT regional emissions analyses of transportation projects outside MPO areas or in areas covered by more than one MPO; and
- (h) Forward unresolved disputes regarding conformity determinations to the governor of New Hampshire for resolution in accordance with Env-A 1501.20.

Source. #6104, eff 10-27-95; ss by #7971, eff 10-14-03

Env-A 1501.08 Roles and Responsibility of NHDOT. In implementing 23 CFR 450, NHDOT shall:

- (a) Act as the lead agency responsible for coordinating and planning multi-regional and statewide transportation systems;
- (b) Develop and implement a statewide transportation plan;
- (c) Develop and implement a statewide transportation improvement program (STIP) as specified in RSA 228:99;
- (d) Obtain required FHWA and FTA approvals for the STIP;
- (e) Develop, in coordination with MPOs and the department, current estimates of vehicle miles traveled (VMT) for each nonattainment area and forecasts of VMT necessary for input to the SIP;
- (f) Provide assistance to MPOs in performing analysis leading to transportation conformity determinations in their regions;
- (g) Make transportation conformity determinations in regions outside of MPO areas;
- (h) Make project-level conformity determinations, including hot-spot analyses in carbon monoxide (CO) nonattainment or maintenance areas, for all projects in the STIP;
- (i) Consult with MPOs, the department, RPCs, EPA, FHWA, and FTA at the initiation of and during the transportation conformity determinations and transportation planning processes relating to air quality issues such as VMT and speed estimates, exempt/not exempt project lists, emissions modeling, emissions budget comparisons, and regionally significant projects;
- (j) Coordinate conformity determinations in nonattainment areas consisting of more than one MPO area;
- (k) Review MPO conformity determinations of MPO transportation plans and MPO TIPs and submit determinations to FHWA and FTA for their conformity findings;
- (l) Provide preliminary conformity findings to the department;

- (m) Coordinate and consult with the department to determine appropriate data inputs into air quality models used for emissions analysis in conformity determinations to ensure consistency with the SIP;
- (n) Consult with MPOs, RPCs, and the department in the selection and development of TCMs if determined to be necessary or desirable to attain the NAAQS and in the preparation of the SIP with respect to these measures;
- (o) Provide assistance and comments to the department on SIP revisions dealing with mobile source issues;
- (p) Notify the department, MPOs, RPCs, FHWA, FTA, and EPA of STIP amendments which add or delete exempt projects;
- (q) Document timely implementation of TCMs which are in the SIP and transportation projects in the STIP which have positive air quality impacts; and
- (r) In cooperation with MPOs, develop a list of regionally significant public or private transportation projects in accordance with Env-A 1501.14(c).

Source. #6104, eff 10-27-95; ss by #7971, eff 10-14-03

Env-A 1501.09 Roles and Responsibilities of MPOs. In implementing 23 CFR 450, each MPO shall:

- (a) Develop a metropolitan transportation plan;
- (b) Develop metropolitan TIPs;
- (c) Assist the NHDOT in determining current estimates of VMT and forecasts of VMT necessary for input to the SIP development process;
- (d) Implement public involvement procedures in the development of MPO transportation plans and MPO TIPs including conformity determinations;
- (e) Make conformity determinations for MPO TIPs and MPO transportation plans, with assistance from NHDOT and the department;
- (f) Coordinate and consult with NHDOT and the department to determine appropriate data inputs into emissions analysis models used for emissions analysis in conformity determinations to ensure consistency with the SIP;
- (g) Consult with the department and NHDOT in the selection and development of TCMs for the MPO area, if the department determines that TCMs are necessary or desirable to attain the NAAQS, and assist in the analysis of these measures for inclusion in the SIP;
- (h) Provide assistance and comments to the department on SIP revisions dealing with mobile source issues in the MPO area;
- (i) Consult with the department, NHDOT, EPA, FHWA, and FTA in transportation conformity determinations and transportation planning processes relating to air quality issues including but not limited to VMT, speed estimates, emissions modeling, and emissions budget comparisons, exempt/not exempt project lists, and regionally significant projects;
- (j) Notify NHDOT and the department of any MPO transportation plan or MPO TIP amendments which add or delete exempt projects;

(k) Evaluate, select, maintain, and update regional transportation models in serious and worse nonattainment areas in cooperation with NHDOT and the department;

(l) Document implementation of TCMs which are in the SIP and transportation projects in transportation plans and TIPs which have positive air quality impacts; and

(m) In cooperation with NHDOT, develop a list of regionally significant projects in MPO areas and provide the list to NHDOT and the department.

Source. #6104, eff 10-27-95; ss by #7971, eff 10-14-03

Env-A 1501.10 Meeting and Regular Consultation.

(a) NHDOT shall schedule and convene regular consultation meetings relating to the transportation conformity process no less frequently than semi-annually.

(b) The NHDOT, the department, and MPOs shall be represented at such meetings. RPCs, EPA, FHWA, and FTA shall be invited to participate in the meetings.

(c) The department or MPOs may request NHDOT to schedule a consultation meeting at any time.

(d) Such regular consultation meetings shall include discussion of activities including, but not limited, to the following:

- (1) Development of a SIP or SIP revisions, including but not limited to, those involving transportation related issues and mobile sources;
- (2) Development of a transportation plan or TIP and any determination of conformity on transportation plans and TIPs;
- (3) Emissions budgets;
- (4) TCMs which are in the SIP or to be considered for inclusion in the SIP;
- (5) Evaluating and determining which events will trigger new conformity determinations; and
- (6) Emissions analysis for transportation activities which cross the borders of MPOs or nonattainment areas.

Source. #6104, eff 10-27-95; ss by #7971, eff 10-14-03

Env-A 1501.11 Circulation of Materials.

(a) NHDOT or each MPO shall provide the following materials to the department no later than at the start of the public comment period for the MPO transportation plan, MPO TIP, or regional emissions analyses performed by NHDOT outside MPO areas:

- (1) Lists of exempt/not exempt projects and regionally significant projects, regardless of funding source;
- (2) MPO TIPs, MPO transportation plans, and corresponding air quality conformity determinations and regional emissions analyses performed by NHDOT;
- (3) MPO TIP and MPO transportation plan amendments and significant changes in project design and scope since the previous conformity determination;

- (4) Copies of public hearing and/or public comment notices on the MPO TIPs, MPO transportation plans, or regional emissions analyses performed by NHDOT;
- (5) Copies of all correspondence from EPA, FHWA, FTA, and MPOs regarding conformity determinations and/or transportation planning processes relating to air quality issues; and
- (6) STIP amendments in nonattainment areas outside MPO areas.

(b) NHDOT or the MPO shall provide preliminary conformity findings to the department as the findings become available.

(c) The department shall provide the following materials to NHDOT, MPOs, and RPCs for comment during the SIP development process and conformity determination process:

- (1) SIP revisions pertaining to mobile sources including inventories, budgets, forecasts, and strategies for reduction of emissions, TCMs, transportation conformity, general conformity, area classifications, and redesignations;
- (2) Proposed and final inputs to emissions analyses models necessary for SIP development and conformity determinations;
- (3) Copies of comments and guidance from EPA to the department regarding SIP development issues relating to mobile sources and transportation; and
- (4) Copies of public hearing notices or public comment period on SIP revisions regarding mobile sources or emissions budgets.

(d) The department shall make the materials listed in (c), above, readily available for public review and comment.

(e) The MPO shall send copies of MPO transportation plans and MPO TIPs which have received a final conformity determination by the MPO to NHDOT, the department, and the NH office of state planning.

(f) NHDOT shall:

- (1) Provide copies of the MPO transportation plans and TIPs to FHWA and FTA for conformity findings;
- (2) Provide copies of any final regional emissions analysis for each STIP, TIP, and plan as specified in Env-A 1501.08(b) and Env-A 1501.09(a) outside MPO areas to the department, each MPO, and the affected RPC; and
- (3) Maintain and make available for public inspection copies of final conformity determinations for each STIP, TIP, and plan as specified in Env-A 1501.08(b) and Env-A 1501.09(a) subject to conformity.

Source. #6104, eff 10-27-95; amd #6839, eff 8-27-98; ss by #7971, eff 10-14-03

Env-A 1501.12 Responding to Comments.

(a) NHDOT shall:

- (1) Document and respond to significant comments received on conformity determinations performed for STIPs, TIPs, and plans as specified in Env-A 1501.08(b) and Env-A 1501.09(a) outside the MPO areas; and
- (2) Include comments and responses in any final conformity determinations.

(b) Each MPO shall:

- (1) Document and respond to significant comments received on draft conformity determinations for the MPO transportation plan and MPO TIP; and
- (2) Include comments and responses in the final MPO transportation plan and MPO TIP conformity determination.

(c) If any significant comment affects the conformity determination or requires additional analysis, NHDOT, the department and the appropriate MPO(s) shall establish the appropriate course of action pursuant to 40 CFR 93, Subpart A.

Source. #6104, eff 10-27-95; ss by #7971, eff 10-14-03

Env-A 1501.13 Transportation Control Measures.

(a) If, after consultation as described in Env-A 1501.07(c), the department determines the need for TCMs in the SIP, the following actions shall occur:

- (1) The department shall request NHDOT to convene a meeting of NHDOT, the department, MPO(s), and RPCs located in the affected nonattainment area, to identify the quantity of emissions reductions necessary;
- (2) The department, NHDOT, affected MPO(s), and RPCs shall each prepare a list of appropriate TCM(s) which potentially achieve the emissions reductions or emissions budget required, quantify the emissions benefits from their proposed projects and review funding availability, scheduling, and permitting issues for the proposed TCM(s);
- (3) NHDOT shall convene a meeting of NHDOT, the department, affected MPO(s), and RPCs to discuss the list of TCM(s) and corresponding emissions benefits to be incorporated into the SIP;
- (4) The TCM(s) selected shall be incorporated into the affected MPO transportation plan(s), affected MPO TIP(s), and the STIP, if necessary, and go through the applicable public involvement process(es) necessary to amend the STIP, MPO TIP(s), and/or MPO transportation plan(s); and
- (5) The department shall develop a SIP revision in accordance with §110 of the Act which incorporates the selected TCM(s) according to the implementation time frame agreed to by the affected MPO(s), NHDOT, and the department.

(b) If TCMs are incorporated into the SIP, NHDOT shall:

- (1) Track the implementation of the TCM project and provide periodic updates no less than annually on implementation to the department, the affected MPO(s), and RPCs;

- (2) Prepare an update on TCM(s), if any, identified in the SIP prior to conformity determinations and provide the update to the department, affected MPO(s) and RPCs; and
- (3) Convene a meeting of NHDOT, affected MPO(s), RPCs, the department, EPA, FHWA, and FTA, if TCM(s) are not on schedule or if funding for the project is in jeopardy.

Source. #6104, eff 10-27-95; amd #6839, eff 8-27-98; ss by #7971, eff 10-14-03

Env-A 1501.14 Regionally Significant Projects.

(a) Projects which are considered regionally significant for purposes of regional emissions analysis shall include any transportation project:

- (1) Not otherwise required to be included in the MPO transportation plan, MPO TIPs, or STIP;
- (2) Not considered exempt according to the federal transportation conformity rule, 40 CFR §93.126 and 40 CFR §93.127; and
- (3) Which is expected to have a significant impact on travel patterns, consistent with the definition of regionally significant in 40 CFR §93.101.

(b) For each regionally significant project, each MPO shall:

- (1) Develop a list of regionally significant projects for inclusion in the conformity determinations in its area based on information requested from communities in the MPO through established committees including technical advisory committees and other public participation; and
- (2) Provide the list of regionally significant projects to NHDOT and the department.

(c) NHDOT shall send the list of regionally significant projects, as specified in (b), above, to EPA, FHWA, and FTA as part of conformity determinations of the MPO transportation plan and MPO TIPs.

(d) Pursuant to 23 CFR 450, NHDOT shall:

- (1) Develop a list of regionally significant projects in nonattainment areas outside an MPO area based on information regarding state funded or permitted projects and on information gathered from regional planning commissions in the nonattainment areas;
- (2) In cooperation with the MPOs and RPCs, combine the list specified in (d)(1), above, with the list of regionally significant projects, specified in (c)(1), above, from the MPOs and RPCs;
- (3) Provide the combined list specified in (d)(2), above, to the department, the MPOs, RPCs, EPA, FHWA, and FTA as part of conformity determinations of the MPO transportation plan, MPO TIP or regional emissions analyses of projects outside MPO areas; and
- (4) Provide information on regionally significant projects within MPO and RPC areas to the affected MPO(s) and RPCs.

(e) When an application is made requesting access to a state maintained highway for a major traffic generator, NHDOT shall:

- (1) Notify the MPO or RPC to make the MPO or RPC aware of potential traffic impacts from major traffic generators; and

(2) If the application results in a transportation project which meets the criteria of a regionally significant project, include that project on its list of regionally significant projects to be circulated as outlined in (d), above.

(f) If the MPO tracks a regionally significant project, then the MPO shall make further inquiries regarding the status of the application listed in (e), above.

(g) Pursuant to 23 CFR 450, and in cooperation with MPOs and RPCs, when analyzing regionally significant projects, NHDOT shall:

- (1) Contact the project sponsor to develop a reasonable design concept and scope based on preliminary studies;
- (2) Ensure that the design concept and scope have the agreement of the project sponsor; and
- (3) Ensure that the project is incorporated into the conformity determination.

Source. #6104, eff 10-27-95; ss by #7971, eff 10-14-03

Env-A 1501.15 Emissions and Transportation Modeling. Pursuant to 23 CFR 450:

(a) NHDOT shall coordinate with the department, EPA, FHWA, FTA, and MPOs for evaluation and selection of both microscale and mesoscale emissions models used in the conformity determination process for MPO transportation plans, MPO TIPS, and projects.

(b) MPOs shall:

- (1) Evaluate and select the appropriate travel demand models for their area with input from NHDOT;
- (2) At the time of initial model selection or at the time when an MPO has decided to change to a new model, notify EPA, FHWA, FTA, and the department; and
- (3) If MPOs are located in serious or higher nonattainment areas, maintain regional transportation models.

(c) NHDOT shall have an opportunity to comment on the development and maintenance efforts of these models through approval of the unified planning work program.

(d) In areas where transportation models exist currently or are required in the future, MPOs shall update, at least every 2 years, land use assumptions in the model to reflect any large scale developments approved subsequent to the date of the last update.

Source. #6104, eff 10-27-95; amd #6839, eff 8-27-98; ss by #7971, eff 10-14-03

Env-A 1501.16 Exempt/Not Exempt Project Lists. Pursuant to 23 CFR 450:

(a) Prior to conformity determinations, MPOs and NHDOT shall:

- (1) Review all projects within nonattainment areas that are on the STIP and MPO TIPS, to determine whether the projects are exempt under 40 CFR §§93.126 and 93.127; and
- (2) Determine if any exempt projects shall be classified as not exempt because of potential emissions impacts.

(b) NHDOT and MPOs shall provide the department, RPCs, EPA, FHWA, and FTA for review and comment a list of projects and their exempt status as part of conformity determinations of MPO transportation plans, MPO TIPs, and regional emissions analyses performed outside the MPO areas.

Source. #6104, eff 10-27-95; ss by #7971, eff 10-14-03

Env-A 1501.17 Projects in PM₁₀ Nonattainment Areas. - RESERVED

Source. #6104, eff 10-27-95; ss #6839, eff 8-27-98; ss by #7971, eff 10-14-03

Env-A 1501.18 Notification of Transportation Plan, TIP, or STIP Proposed Amendments of Exempt Projects. Pursuant to 23 CFR 450:

(a) NHDOT shall notify the appropriate MPO(s), the department, affected RPCs, EPA, FHWA, and FTA of any proposed STIP amendment which adds or deletes an exempt project(s) as listed in 40 CFR §§93.126 and 93.127.

(b) MPOs shall notify NHDOT, the department, EPA, FHWA, and FTA of any proposed MPO transportation plan or proposed MPO TIP amendment which adds or deletes an exempt project(s) as listed in 40 CFR §§93.126 and 93.127.

Source. #6104, eff 10-27-95; ss by #7971, eff 10-14-03

Env-A 1501.19 Conformity in Nonattainment Areas Outside MPO Areas or Containing More Than One MPO Area. Pursuant to 23 CFR 450:

(a) In portions of nonattainment areas that are not included in an MPO area or that contain more than one MPO area, NHDOT shall determine conformity of STIPs, TIPs, and plans as specified in Env-A 1501.08(b) and Env-A 1501.09(a) incorporating the most recent emissions analysis from the currently conforming MPO transportation plan and MPO TIP for all MPOs which are within the nonattainment area.

(b) In nonattainment areas which contain more than one MPO, each MPO shall consider the most recent emissions analysis from the other currently conforming MPO transportation plans and MPO TIPs within the region.

(c) NHDOT shall coordinate conformity determinations in nonattainment areas with more than one MPO.

Source. #6104, eff 10-27-95; amd #6839, eff 8-27-98; ss by #7971, eff 10-14-03

Env-A 1501.20 Resolving Conflicts.

(a) During the 30 calendar day public comment period on conformity determinations of MPO transportation plans, MPO TIPs, and NHDOT regional emissions analyses of transportation projects, the department shall have an opportunity to formally comment on the conformity determination of such MPO transportation plans, MPO TIPs, and NHDOT regional emissions analyses.

(b) The department shall:

- (1) Submit written comments on the conformity determinations to the appropriate MPO and to NHDOT as soon as possible but no later than the close of the public comment period; and

(2) Include in the comments specified in (b)(1), above, a clear finding of concurrence or nonconcurrence on the conformity determinations and a list of issues to be addressed, if any.

(c) If the department does not concur with the conformity determinations, NHDOT or the appropriate MPO shall submit a written response(s) to the department within 14 calendar days of the receipt of the department comments clearly addressing each of the stated issues either by revising the determination or by explaining why it was not revised.

(d) If the issues are not resolved, the department shall have 14 calendar days from the receipt of the NHDOT and/or MPO response(s) to deliver a written appeal to the governor of New Hampshire for resolution.

(e) If the department appeals to the governor, final conformity determinations shall have the concurrence of the governor of New Hampshire or the governor's designee assigned in accordance with 40 CFR 93, Subpart A.

(f) Pursuant to 23 CFR 450, if a conflict arises among MPOs with respect to conformity determinations, NHDOT shall:

(1) Act as the arbitrator; and

(2) Invite the department to any meetings held to resolve the conflict.

Source. #6104, eff 10-27-95; ss by #7971, eff 10-14-03

Env-A 1501.21 Public Consultation.

(a) NHDOT, the department, and MPOs shall implement all applicable federal and state required public involvement and public notification processes.

(b) MPOs shall provide a minimum of 30 days for receipt of public comment prior to taking a formal action on conformity determinations of MPO transportation plans and MPO TIPs.

(c) NHDOT shall provide a minimum of 30 days for receipt of public comment prior to taking formal action on conformity determinations of NHDOT regional emissions analyses in areas outside MPO areas or in areas covered by more than one MPO.

Source. #7971, eff 10-14-03

PART Env-A 1502 CONFORMITY OF GENERAL FEDERAL ACTIONS

Env-A 1502.01 Purpose. The purpose of this part is to implement §176(c)(4) of the Clean Air Act (the Act), as amended, and 40 CFR 51, Subpart W, with respect to the conformity of federal actions to the SIP. Conformity determinations for federal actions ensure that the purpose and intent of the SIP are met.

Source. #6228, eff 4-25-96; ss by #7971, eff 10-14-03

Env-A 1502.02 Applicability.

(a) Pursuant to §176(c)(1) of the Act, this part shall apply to any federal department, agency, or instrumentality which meets the applicability criteria as specified in 40 CFR §51.853.

(b) This part shall not apply to any entity subject to a conformity determination for a federal action related to a transportation plan, program, or project developed, funded, or approved under 23 USC §§101 et seq. or the Federal Transit Act, as amended, 49 USC §§1601 et seq.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Source. #6228, eff 4-25-96; ss by #7971, eff 10-14-03

Env-A 1502.03 References.

(a) For the purpose of this part, unless otherwise specified, the July 1, 2004 edition of title 40 of the CFR shall control all references to 40 CFR 51.

(b) For the purpose of this part, except as specified in Env-A 1502.04, the definitions contained in and referred to in 40 CFR §51.852 shall apply.

Source. #6228, eff 4-25-96; ss by #7971, eff 10-14-03; amd by #8382, eff 6-22-05

Env-A 1502.04 Definitions.

(a) “Maintenance area” means any geographic region of New Hampshire previously designated as a nonattainment area pursuant to the Act, and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under §175A of the Act.

(b) “Metropolitan planning organization (MPO)” means “metropolitan planning organization” as defined in 40 CFR §93.101, namely an “organization designated as being responsible, together with the State, for conducting the continuing, cooperative, and comprehensive planning process under 23 U.S.C. §134 and 49 U.S.C. §5303. It is the forum for cooperative transportation decision-making.” This term includes the Manchester MPO, the Nashua MPO, the Salem/Plaistow/Windham MPO, and the Seacoast MPO.

(c) “Nonattainment area” means any geographic region in New Hampshire designated as a nonattainment area by EPA under §107 of the Act for any pollutant for which a NAAQS exists.

Source. #6228, eff 4-25-96; ss by #7971, eff 10-14-03

Env-A 1502.05 Conformity to State and Federal Implementation Plans.

(a) Pursuant to §176(c)(1) of the Act, no applicable federal entity shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to the SIP or FIP developed pursuant to §110 and §§171 through 185 of the Act.

(b) Such determination that a federal activity conforms to the SIP or FIP shall be made in accordance with §176 of the Act and 40 CFR 51, Subpart W.

Source. #7971, eff 10-14-03

APPENDIX

Provision of the Proposed Rule	Specific State or Federal Statutes or Regulations which the Rule is Intended to Implement
Env-A 1501.01(a)	RSA 125-C:4, I(a); 42 U.S.C. §7506; 40 CFR 93, Subpart A
Env-A 1501.01(b)	RSA 125-C:4, I(a); 42 U.S.C. §7506; 40 CFR §93.105
Env-A 1501.02	RSA 125-C:4, I(a); 42 U.S.C. §7506; 40 CFR §93.102
Env-A 1501.03(a)	RSA 125-C:4, I(a); 42 U.S.C. §7506; 23 CFR 450
Env-A 1501.03(b)	RSA 125-C:4, I(a); 42 U.S.C. §7506; 40 CFR 93
Env-A 1501.03(c)	RSA 125-C:4, I(a); 42 U.S.C. §7506; 40 CFR §93.101
Env-A 1501.04	RSA 125-C:4, I(a); RSA 36:45 through RSA 36:58; 42 U.S.C. §7506; 40 CFR §93.101
Env-A 1501.05	RSA 125-C:4, I(a); 42 U.S.C. §7506; 42 U.S.C. §7511; 42 U.S.C. §§7501 through 7515; 40 CFR 93, Subpart A
Env-A 1501.06	RSA 125-C:4, I(a); 42 U.S.C. §7506; 42 U.S.C. §7407
Env-A 1501.07	RSA 125-C:4, I(a); 42 U.S.C. §7506; 40 CFR 51, Subpart T; 40 CFR 93, Subpart A
Env-A 1501.08	RSA 125-C:4, I(a); 42 U.S.C. §7506; 23 CFR 450, Subpart B
Env-A 1501.09	RSA 125-C:4, I(a); 42 U.S.C. §7506; 23 CFR 450, Subpart C
Env-A 1501.10	RSA 125-C:4, I(a); 42 U.S.C. §7506; 23 CFR 450; 40 CFR 93, Subpart A
Env-A 1501.11	RSA 125-C:4, I(a); 42 U.S.C. §7506; 23 CFR 450; 40 CFR 93, Subpart A
Env-A 1501.12	RSA 125-C:4, I(a); 42 U.S.C. §7506; 23 CFR 450; 40 CFR 93, Subpart A
Env-A 1501.13	RSA 125-C:4, I(a); 42 U.S.C. §7506; 23 CFR 450; 40 CFR 93, Subpart A
Env-A 1501.14	RSA 125-C:4, I(a); 42 U.S.C. §7506; 23 CFR 450; 40 CFR 93, Subpart A
Env-A 1501.15	RSA 125-C:4, I(a); 42 U.S.C. §7506; 23 CFR 450; 40 CFR 93, Subpart A
Env-A 1501.16	RSA 125-C:4, I(a); 42 U.S.C. §7506; 23 CFR 450; 40 CFR 93, Subpart A
Env-A 1501.17	RSA 125-C:4, I(a); 42 U.S.C. §7506; 23 CFR 450; 40 CFR 93, Subpart A
Env-A 1501.18	RSA 125-C:4, I(a); 42 U.S.C. §7506; 23 CFR 450; 40 CFR 93, Subpart A
Env-A 1501.19	RSA 125-C:4, I(a); 42 U.S.C. §7506; 23 CFR 450; 40 CFR 93, Subpart A
Env-A 1501.20	RSA 125-C:4, I(a); 42 U.S.C. §7506; 23 CFR 450; 40 CFR 93, Subpart A
Env-A 1501.21	RSA 125-C:4, I(a); 42 U.S.C. §7506; 23 CFR 450; 40 CFR 93, Subpart A
Env-A 1502.01	RSA 125-C:4, I(a); 42 U.S.C. §7506; 40 CFR 51, Subpart W
Env-A 1502.02	RSA 125-C:4, I(a); 42 U.S.C. §7506; 40 CFR §51.853
Env-A 1502.03(a)	RSA 125-C:4, I(a); 42 U.S.C. §7506; 40 CFR 51
Env-A 1502.03(b)	RSA 125-C:4, I(a); 42 U.S.C. §7506; 40 CFR §51.852
Env-A 1502.04	RSA 125-C:4, I(a); 42 U.S.C. §7506; 42 U.S.C. §7407; 40 CFR §51.852
Env-A 1502.05	RSA 125-C:4, I(a); 42 U.S.C. §7506; 42 U.S.C. §7511; 42 U.S.C. §§ 7501 through 7515; 40 CFR 51, Subpart W